

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: ILLINOIS DEPARTMENT OF) OEIG Case #14-01678
AGRICULTURE and)
CHERYL BLUHM)

OEIG FINAL REPORT (REDACTED)

Below is a final summary report from an Executive Inspector General. The General Assembly has directed the Executive Ethics Commission (Commission) to redact information from this report that may reveal the identity of witnesses, complainants or informants and “any other information it believes should not be made public.” 5 ILCS 430/20-52(b).

The Commission exercises this responsibility with great caution and with the goal of balancing the sometimes-competing interests of increasing transparency and operating with fairness to the accused. In order to balance these interests, the Commission may redact certain information contained in this report. The redactions are made with the understanding that the subject or subjects of the investigation have had no opportunity to rebut the report’s factual allegations or legal conclusions before the Commission.

The Commission received this report from the Governor’s Office of Executive Inspector General (“OEIG”) and a response from the agency in this matter. The Commission, pursuant to 5 ILCS 430/20-52, redacted the final report and mailed copies of the redacted version and responses to the Attorney General, the Governor’s Executive Inspector General, the Illinois Department of Agriculture and to Cheryl Bluhm at her last known address.

The Commission reviewed all suggestions received and makes this document available pursuant to 5 ILCS 430/20-52.

FINAL REPORT

I. ALLEGATIONS

On August 30, 2014, the Office of Executive Inspector General (OEIG) self-initiated this investigation to examine whether the Illinois Department of Agriculture (Agriculture) hired individuals under Personal Services Contracts (PSCs) to circumvent the competitive hiring process. Specifically, the OEIG sought to determine whether Agriculture violated applicable rules, directives, policies, and procedures by:

- hiring individuals through PSCs without either following *Rutan*¹ requirements or obtaining an exemption from the Illinois Department of Central Management Services; and
- employing individuals through PSCs to perform duties comparable to already existing positions classified under the Illinois Personnel Code.²

In addition, during the investigation, the OEIG discovered that Agriculture may not have been complying with *Rutan*'s requirements relating to its hires of State Fair Workers. The OEIG examined that issue as well.³

II. BACKGROUND

A. Illinois Department Of Agriculture

The Illinois Department of Agriculture administers programs and services related to conserving Illinois' land and water resources, protecting the health and welfare of livestock, regulating products used in agriculture, and promoting Illinois agricultural products, among others.⁴ Agriculture also oversees the Illinois and DuQuoin State Fairs,⁵ and employs a number of temporary seasonal employees each year to work at these fairs or in other capacities. According to its website, Agriculture employs more than 600 people statewide.⁶

B. Illinois Department Of Central Management Services

The Illinois Department of Central Management Services (CMS) provides management support to State agencies, including administering various personnel and hiring rules, implementing employee classification standards, and processing personnel transactions.⁷

C. Laws and Rules Generally Applicable To State Hiring

¹ As discussed more fully below, "*Rutan*" refers to *Rutan v. Republican Party of Illinois*, 497 U.S. 62 (1990), in which the U.S. Supreme Court generally held that States are prohibited from basing personnel decisions on political affiliation or support.

² As discussed more fully below, a position that is subject to the requirements of the Illinois Personnel Code generally must be filled based on merit and fitness.

³ During the investigation, the OEIG also discovered that three individuals who retired from State employment under a 2002 Early Retirement Incentive, were subsequently rehired under Agriculture PSCs: [Employee 1], [Employee 2], and [Employee 3]. Employees who elected to participate in this Early Retirement Incentive cannot return to State employment as contractual employees. See 30 ILCS 105/15a (excluding from the definition of "contractual services" under any appropriation act, expenditures for services performed for a State agency "by a person who has received any early retirement incentive under Section 14-108.3 . . . of the Illinois Pension Code based on retirement in 2002 or later"). The OEIG will refer the matter to State Retirement Systems for any appropriate action. The OEIG also recommends that Agriculture not rehire [Employee 1], [Employee 2], and [Employee 3] in the future, and that Agriculture implement a procedure to check whether future returning retirees participated in an early retirement incentive prior to hiring.

⁴ See <https://www2.illinois.gov/sites/agr/About/Pages/History-of-The-Illinois-Department-Of-Agriculture.aspx> (last visited Sept. 26, 2017).

⁵ See *id.*

⁶ See *id.*

⁷ See <https://www2.illinois.gov/cms/About/Bureaus/Pages/default.aspx> (last visited Jan. 29, 2018).

1. *Rutan* and Related Administrative Orders

Under *Rutan v. Republican Party of Illinois*, the State is prohibited from basing certain hiring decisions on political affiliation or support.⁸ CMS determines whether a position is *Rutan*-covered, and therefore must be filled using politically neutral, merit-based criteria, or whether it is exempt from *Rutan*'s requirements. CMS makes this determination based on a review of the job duties identified in the position description; a position that does not have policymaking, spokesperson, or confidential duties and responsibilities is typically deemed *Rutan*-covered.

At various times following the *Rutan* decision, several Illinois Governors have issued administrative orders outlining procedures that must be followed to fill a *Rutan*-covered position.⁹ These procedures include posting positions online, developing standardized interview questionnaires, using interviewers who have been certified through CMS's interview and selection training (commonly referred to as "*Rutan*" training), conducting standardized interviews, and evaluating candidates by scoring their responses to interview questions against previously-developed hiring criteria.¹⁰ In addition, the interview process is required to be documented, along with the employment decision.¹¹ Agencies are required to maintain *Rutan* files containing this documentation for three years from the date of the employment decision, or in accordance with agency record retention policies, whichever is longer.¹²

2. Illinois Personnel Code

Separate from and in addition to the requirements of the administrative orders promulgated in response to the *Rutan* decision, the Illinois Personnel Code establishes "a system of personnel administration under the Governor, based on merit principles and scientific methods."¹³ The Code applies to "[a]ll offices and positions of employment in the service of the State of Illinois," unless they are exempted.¹⁴

CMS is charged with administering the Personnel Code, including preparing and maintaining a position classification plan for all positions subject to the Code, based upon the similarity of duties performed, responsibilities assigned, and conditions of employment.¹⁵ Appointments to positions covered by the Code must be made from the appropriate eligible list of candidates, as determined from open competitive examinations, or through other ways outlined in the applicable rules.¹⁶

III. INVESTIGATION

⁸ 497 U.S. 62, 65 (1990).

⁹ See, e.g., Administrative Order No. 1 (1990); Administrative Order No. 2 (1990); Administrative Order No. 1 (1991); Administrative Order No. 2 (2009).

¹⁰ Administrative Order No. 2 (2009).

¹¹ Administrative Order No. 2 (2009).

¹² Administrative Order No. 2 (2009).

¹³ 20 ILCS 415/2.

¹⁴ 20 ILCS 415/4.

¹⁵ 20 ILCS 415/3 & 8a(1).

¹⁶ 80 Ill. Admin. Code 302.90, 302.110. For example, a certified employee may be promoted into the position. 80 Ill. Admin. Code 302.90(a).

In this investigation, the OEIG examined the *Rutan*-related administrative orders and the Personnel Code's requirements, as applied to hiring and rehiring under PSCs, and examined whether Agriculture's hiring practices under PSCs complied with those requirements. Investigators also examined Agriculture's *Rutan* compliance relating to hiring for the State Fair Worker position.

A. Agriculture's Compliance With *Rutan* and Other Applicable Rules When Hiring Under PSCs

1. *Rutan* Requirements Applicable to PSCs

Although various State statutes reference contractual employees,¹⁷ no statute explicitly authorizes State agencies to employ individuals through PSCs. Investigators therefore reviewed memoranda and CMS policies and procedures that define PSCs and govern how they can be awarded.

In a July 26, 2006 memorandum to CMS (Quinlan Memorandum), then-General Counsel to the Governor's Office William Quinlan defined PSCs as "temporary contracts between the State and an individual which outline[] specifically-identified and limited services to be provided under the supervision of agency personnel, the employee's work location, the term of the contract and the level of compensation." The Quinlan Memorandum stated that *Rutan*'s prohibition against the consideration of political affiliation "applies with equal force to independent contractors for both goods and services (including personal services contracts). . . ."¹⁸ The Memorandum directed CMS to presume that all PSCs are covered by *Rutan*, "unless and until [CMS] makes a formal, written finding that the nature of the duties the employee will perform under the contract exempts the contract from *Rutan*."¹⁹

The Quinlan Memorandum directed CMS to institute requirements for awarding PSCs, to ensure compliance with *Rutan*. On December 13, 2006, then-CMS Director Paul Campbell transmitted CMS's Policies and Procedures for Interviewing and Selecting Candidates for Personal Services Contracts (PSC Hiring Procedures) to agency directors. The procedures require agencies to post PSCs, develop contracting criteria and standardized interview questions prior to conducting interviews, conduct structured interviews, rank candidates based on the pre-established criteria, and document the interview process and contracting decision. The PSC Hiring Procedures further

¹⁷ See, e.g., 5 ILCS 410/10(b) (defining "contractual services employee," in the context of the State Employment Records Act); 5 ILCS 365/2 (including "State contractual employees" in the definition of "Employee," relating to deductions to purchase United States Savings Bonds under the State Salary and Annuity Withholding Act); 15 ILCS 405/10.05 (prohibiting deductions of amounts in excess of 25% from "contractual payment[s] to an individual for personal services," to satisfy amounts owed to the State, under the State Comptroller Act); 5 ILCS 340/3 (including "individual[s] hired as an employee by contract" in the definition of "Employee," under the Voluntary Payroll Deductions Act of 1983); 30 ILCS 500/1-10(b)(4) (exempting from the Procurement Code the "[h]iring of an individual as employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual").

¹⁸ In support of this position, the Quinlan Memorandum cited *O'Hare Trucking Serv., Inc. v. City of Northlake*, 116 S. Ct. 2353 (1996).

¹⁹ The Quinlan Memorandum also outlined required procedures, similar to the procedures outlined a few years later in Administrative Order No. 2 (2009), for CMS to use to ensure that PSCs comply with *Rutan*.

require agencies to maintain a file containing the PSC Contract Decision Forms, PSC Candidate Evaluation Forms, completed interview questionnaires, statements certifying that politics were not a factor in the contracting decision, and the PSC itself.

The PSC Hiring Procedures state that they must be followed for the selection of “persons seeking to enter into a direct contract with the State of Illinois for specific non-confidential and non-policy-making services for a specified time period,” unless CMS determines that the PSC is exempt. To obtain an exemption from the PSC Hiring Procedures, an agency must submit two forms to CMS: a PSC Request for Review/Determination Form, and a PSC Description of Services Form.

The PSC Hiring Procedures provide that an agency also may forego using the prescribed hiring procedures if the agency is renewing or offering a contract to an individual who has satisfactorily performed services for the agency in the past in the same or a similar PSC capacity. However, to take advantage of this exception, the agency must demonstrate: (1) some tangible benefit to the rehire, such as ensuring public safety or significant savings to the agency; and (2) that the candidate performed satisfactorily under the prior PSC.²⁰ The PSC Hiring Procedures require the agency to include a statement in the Decision Form that explains how these “essential elements” have been satisfied.

In a December 10, 2012 memorandum to then-Agriculture [Employee 4] and others (Salazar Memorandum), then-CMS Bureau of Personnel Deputy Director Israel Salazar wrote that “in reviewing documentation submitted to CMS associated with hiring for temporary positions,” it had come to CMS’s attention that, “in many cases, *Rutan* interviewing and documentation procedures are not being followed.” The Salazar Memorandum confirmed that agencies are required to follow the usual *Rutan* interview and documentation process for hires into temporary positions.

In addition, similar to the rehire process outlined in the PSC Hiring Procedures, the Salazar Memorandum stated that if an agency seeks to “rehir[e] into a temporary position an individual or individuals who have previously worked for your agency in the same or similar capacity,” the agency may forego the *Rutan* process if the agency demonstrates the two elements prescribed in the PSC Hiring Procedures. The Salazar Memorandum stated that, to rehire an individual under these circumstances, the agency must submit a Decision Form to CMS that explains the candidate’s qualifications and documents how the two required elements have been satisfied.

Investigators interviewed then-CMS Deputy Director [Employee 5] and then-CMS Deputy General Counsel [Employee 6] for further clarification about how *Rutan*’s requirements apply to Agriculture’s PSCs.²¹ [Employee 5] and [Employee 6] said that for initial hires, including temporary employees, PSCs must be filled competitively unless they are submitted to CMS for an

²⁰ The rehire PSC also must comply with an American Federation of State, County and Municipal Employees (AFSCME) collective bargaining agreement’s PSC Memorandum of Understanding.

²¹ The OEIG interviewed [Employee 5] on February 4, 2016, and interviewed [Employee 6] on March 22, 2016.

exemption of the *Rutan* hiring requirements.²² However, [Employee 5] said that, based on the Salazar Memorandum, the *Rutan* procedures need not be followed for the renewal of a previous PSC or the rehire of a former employee under a PSC, when the new PSC is for the same or substantially similar duties as those performed in the previous employment, if the employee performed those duties satisfactorily. [Employee 6] recalled that the Salazar Memorandum was intended to address issues related to hiring summer workers at Agriculture and other agencies.

2. Review of Agriculture's *Rutan* Compliance for Initial Hires Under PSCs

The OEIG asked Agriculture to produce all PSCs it awarded from January 1, 2006 through September 2015, as well as various types of supporting *Rutan* documentation.²³ Investigators then identified approximately 633 PSCs that Agriculture entered into with approximately 269 individuals between January 2007 (following the December 13, 2006 transmission of the PSC Hiring Procedures to agency directors) and September 2015. Investigators reviewed the documents Agriculture produced for these 269 individuals, as well as available Expanded Personnel Histories.²⁴ Based on this review, the OEIG determined that approximately 146 of the 633 PSCs examined were awarded to individuals who had not previously worked at Agriculture, and 487 were rehires.²⁵

a. Agriculture's Documentation for Initial Hires

With regard to the initial hires under a PSC, the OEIG asked Agriculture to produce the required *Rutan* documentation, such as hiring files, posting documents, interview questionnaires, candidate evaluations, Decision Forms, and statements certifying that politics were not a factor in the contracting decisions. In this request, the OEIG requested documentation for 132 of the 146 initial hires made between January 2007 and September 2015.²⁶ A complete list of those hires and the documents produced by Agriculture is included in Appendix A. The following table shows the results of the records produced by Agriculture and/or CMS regarding these 132 initial hires through PSCs.

²² [Employee 5] stated that the *Rutan* interview and selection requirements also apply to Trades positions, which are covered by collective bargaining agreements that are not AFSCME agreements. [Employee 5] said that these positions are included on a list of positions that are "always" *Rutan*-covered, which is maintained by CMS.

²³ This investigation was significantly delayed by Agriculture's failure to respond in a timely manner to the OEIG's document requests and failure to provide complete responses. Agriculture [Employee 7] handled the OEIG's requests. On February 22, 2016, the OEIG requested documents relating to various employees hired under PSCs. [Employee 7] provided a partial response nearly two months later, on April 12 and 19, 2016. In the months that followed, the OEIG repeatedly followed up with [Employee 7], asking him to either provide a complete response or confirm that no additional responsive documents existed. [Employee 7] ultimately responded on December 2, 2016, over 9 months after the OEIG sent Agriculture its initial request.

²⁴ Expanded Personnel Histories reflect various employment actions relating to State employees who occupy Code-covered positions.

²⁵ For this purpose, investigators categorized individuals with any indication of prior Agriculture employment as rehires, without regard to what their prior positions were, or whether they previously were hired through a competitive process.

²⁶ The OEIG inadvertently did not ask Agriculture to produce hiring files for the following 14 of the 146 initial hires: [Names redacted.] Because many of these initial PSCs dated back to 2007, and based on concerns regarding Agriculture's delays in producing documents, the OEIG did not request these records when the omission was discovered.

Initial Hire PSCs, January 2007-September 2015

Action Taken by Agriculture/CMS/OEIG	Number of PSCs
Number of hiring records requested by OEIG	132
Number of hires for which limited <i>Rutan</i> documentation was produced	4
Number of <i>Rutan</i> exemptions granted by CMS	1
Number of hires for which no documentation was provided by Agriculture	127

As shown in the above table, Agriculture produced no documentation of hiring actions taken or obtained exemptions for 127 of the initial hires. For four of the initial hires, Agriculture provided some, but not all, of the required *Rutan* documentation. The limited documentation for those four hires included the following:

- Agriculture produced interview questionnaires and candidate evaluation forms for two of the initial hires;²⁷
- for the third initial hire, Agriculture produced a Decision Form that indicated the selected individual's ranking and overall score, and the number of candidates interviewed, and contained a certification that the hiring decision was not based on political party affiliation, support, or lack thereof;²⁸ and
- for the fourth initial hire, Agriculture produced a Decision Form that indicated that the selected individual was one of seven candidates for the position; it also contained the same certification.²⁹

Pursuant to the PSC Hiring Procedures, the selection procedures must be followed unless CMS determines, based on a submission by the agency, that the PSC is exempt. Thus, investigators asked CMS for documentation of any exemptions it granted Agriculture from the PSC Hiring Procedures between 2006 and 2015. In response to the OEIG's request, CMS produced documentation for only one of the initial-hire Agriculture positions examined above. That exemption, dated May 2015, was for a Bureau Chief of the Bureau of Medicinal Plants.³⁰

b. May 12, 2016 Interview of Agriculture Human Resources Director Cheryl Bluhm regarding Initial Hires under PSCs

Investigators interviewed Cheryl Bluhm on May 12, 2016. Ms. Bluhm has been Agriculture's Human Resources Director since at least April 2015,³¹ and has worked in Human Resources at Agriculture since approximately 2002. As Human Resources Director, Ms. Bluhm oversees the hiring of Agriculture employees.

²⁷ See Appendix A. Those PSCs were awarded to [Employee 8] and [Employee 9], who worked as Campground Superintendents in 2015.

²⁸ That PSC was awarded to [Redacted], who worked as a Temporary Plumber in 2013.

²⁹ That PSC was awarded to [Redacted], who worked as a Temporary Plumber in 2009.

³⁰ Agriculture awarded that PSC to [Employee 10]. CMS also produced an exemption for a second Agriculture position, which was a Legal Services position awarded to [Employee 11]. According to his Expanded Personnel History, [Employee 11] worked for Agriculture on an emergency or temporary basis prior to his PSC, and therefore the OEIG did not include him in its examination of initial hire PSCs.

³¹ In a subsequent interview, Ms. Bluhm told investigators that she has been in that position since April 2014.

When asked to describe the PSC process as of May 2016, Ms. Bluhm said that the Agriculture bureau with a hiring need decided whether to fill the position through a PSC or an appointment. According to Ms. Bluhm, after Agriculture Deputy Director Warren Goetsch approved the bureau's request to use a PSC, she informed the bureau whether the position must be posted, based on information provided by the bureau. Ms. Bluhm said that, if the PSC was being filled with a rehire, it was not posted or filled competitively.

Ms. Bluhm said she was familiar with the PSC Hiring Procedures. Ms. Bluhm initially stated that Agriculture posted and conducted interviews for every initial hire filled through a PSC and completed Decision Forms for all hires through PSCs. Ms. Bluhm said that, when a PSC was not being filled with a rehire, she advised the hiring bureau to conduct *Rutan* interviews, and that individual bureaus were responsible for conducting the interviews and maintaining Decision Forms. Ms. Bluhm said that she was not certain whether interviews for new hires under PSCs were being conducted because Human Resources did not check; she said that Human Resources also did not maintain hiring files. Ms. Bluhm said she could not answer whether Decision Forms were being completed.

Investigators showed Ms. Bluhm PSCs for three initial hires for which Agriculture did not produce any Decision Form or other supporting *Rutan* hiring documentation: Apiary Inspector [Employee 12], Gypsy Moth Trapper [Employee 13], and Machinery Equipment Operator [Employee 14]. Ms. Bluhm said she did not know if [Employee 12] was interviewed for his initial PSC in 2013 or whether a Decision Form was completed. Ms. Bluhm said she did not know why Agriculture did not provide a Decision Form for [Employee 13] in response to the OEIG's request, but that she believed [Employee 13] would have been interviewed for the position. However, she reiterated that she did not check to ensure that the hiring bureau conducted *Rutan* interviews and maintained the interview files.

Regarding Machinery Equipment Operator [Employee 14], Ms. Bluhm said that Operator, Teamster, and Electrician positions for the Illinois State Fair were not posted or filled through *Rutan* interviews. Instead, she said, Agriculture recruited these employees from the "union hall." Ms. Bluhm said the way Agriculture filled these positions did not comply with the PSC Hiring Procedures. When asked why Agriculture filled these positions this way, Ms. Bluhm responded by stating that was the way it had been done in the past. Ms. Bluhm acknowledged that she was aware of the PSC Hiring Procedures when [Employee 14] held the Machinery Equipment Operator position under the PSC.

Ms. Bluhm acknowledged that Agriculture was not in compliance with Administrative Order No. 2 (2009) or the PSC Hiring Procedures, because Decision Forms were not completed when Agriculture filled positions through PSCs.

3. Review of Agriculture's Compliance for Rehires under PSCs

As noted above, the PSC Hiring Procedures and the Salazar Memorandum permit agencies to forego compliance with the *Rutan* hiring procedures when they rehire into a temporary position an individual who previously worked for the agency in the same or similar capacity. To take

advantage of this option, however, agencies are required to document on a Decision Form: (1) the tangible benefit of the rehire, and (2) that the candidate performed satisfactorily during his or her previous term of employment. Accordingly, investigators examined Agriculture's Decision Forms relating to its rehires under PSCs, and interviewed Ms. Bluhm about how Agriculture processes such rehires.

a. Agriculture's Documentation of PSC Rehires

The OEIG determined that approximately 197 of the 487 rehire PSCs the OEIG obtained were awarded between January 2013 (following the issuance of the December 10, 2012 Salazar Memorandum) and September 2015.³² Investigators asked Agriculture to produce Decision Forms for 148 of those 197 rehire PSCs.³³ A complete list of those hires and whether Agriculture produced Decision Forms for them is included in Appendix B. The following table shows the results of the records produced by Agriculture regarding these 148 rehires through PSCs:

Rehire PSCs, January 2013-September 2015

Action Taken by Agriculture/OEIG	Number of PSCs
Number of rehire PSCs for which records were requested by OEIG	148
Number of rehire PSCs for which Decision Forms were produced	15
Number of rehire PSCs for which a tangible benefit to rehire was specified	0
Number of rehire PSCs for which past performance was verified	3
Number of rehires for which no documentation was provided by Agriculture	133

As shown in the above table, Agriculture produced no Decision Forms for 133 of the 148 rehire PSCs. For the 15 rehire PSCs for which Agriculture did produce Decision Forms, none of the forms discussed any specific tangible benefit to the rehire, such as ensuring public safety or providing significant savings to Agriculture; the forms simply stated that the decision was "in the best interest of the Department of Agriculture and the State of Illinois." In addition, only 3 of the 15 forms produced verified that the candidate performed satisfactorily in the previous employment. Finally, although the forms listed hiring criteria such as "[a]vailability for employment," "[a]bility to work with the public & communicate effectively," and "[p]revious work experience," the forms did not describe any candidate's particular qualifications.

In light of the lack of written verification of the rehired individuals' past performance for 145 of the 148 rehire PSCs examined, investigators asked Agriculture to produce written evaluations completed upon the termination of the employees' prior service for a selection of 52 individuals rehired under PSCs between January 2013 and September 2015. Agriculture did not produce any type of written evaluation for 15 of these 52 individuals.

³² As noted above, these rehires include all individuals for whom Agriculture produced any documentation indicating previous employment. Therefore, this group may include individuals who received their previous Agriculture employment without going through a competitive hiring process. This number does not include the PSC for [Employee 11], because, as noted above, CMS granted Agriculture an exemption from the PSC Hiring Procedures for that position.

³³ The OEIG inadvertently did not ask Agriculture to produce Decision Forms for 21 individuals who were rehired under PSCs between January 2013 and September 2015: [Names redacted.] Some of these individuals had multiple rehire PSCs.

In summary, for the 148 PSCs examined that were awarded to former Agriculture employees between January 2013 and September 2015, investigators did not find any documentation that satisfied the requirements outlined in the PSC Hiring Procedures and the Salazar Memorandum for rehires into temporary positions.³⁴

b. May 12, 2016 Interview of Ms. Bluhm regarding PSC Rehires

Ms. Bluhm said she considered anyone who has ever previously worked at Agriculture in any capacity to be a rehire, even if the previous position had different duties or was a temporary position that was not filled through the *Rutan* process. Ms. Bluhm said Agriculture did not check to see if a potential rehire ever went through the *Rutan* hiring process in a previous position. Ms. Bluhm said that no Decision Forms were completed when an individual was rehired on a PSC.

Ms. Bluhm said that Human Resources did not track whether evaluations were completed for PSC employees, and that she did not know if the bureaus evaluated their employees at the end of their PSC terms, other than that some Bureau Chiefs formally evaluated their Trades employees. Ms. Bluhm said that Agriculture did not routinely check evaluations when considering whether to rehire an individual on a PSC, and that when a PSC was filled with a rehire she did not ask if the employee performed satisfactorily in his or her previous Agriculture employment. Ms. Bluhm said she could not answer whether Agriculture was satisfying the rehire criteria outlined in the PSC Hiring Procedures because she did not know if the bureaus evaluated PSC employees.

Investigators showed Ms. Bluhm PSCs for four rehires for which Agriculture did not produce any Decision Form or documentation that the rehire criteria outlined in the PSC Hiring Procedures and Salazar Memorandum were satisfied: Apiary Inspector [Employee 12], Mechanic Assistant [Employee 15], Temporary Painter [Employee 16], and Temporary Automotive Mechanic Helper [Employee 17]. Ms. Bluhm said she did not know whether a Decision Form was completed for any of [Employee 12's] PSCs, or whether he was ever evaluated. She said that [Employee 15] was the top-ranking candidate of the candidates interviewed for his previous position, but that a Decision Form probably was not completed for [Employee 15's] subsequent hire under a PSC. Ms. Bluhm said that [Employee 16's] rehire PSC position would not have been posted, interviews would not have been conducted, and no Decision Form would have been completed.

Regarding Agriculture's 2015 rehire of Temporary Automotive Mechanic Helper [Employee 17] under a PSC, investigators showed Ms. Bluhm documentation indicating that

³⁴ In addition, Agriculture could have elected to follow the more rigorous *Rutan* hiring procedures instead of the limited procedures outlined in the PSC Hiring Procedures and the Salazar Memorandum. The OEIG also requested *Rutan* documentation for many of these rehire PSCs, but Agriculture produced no interview questionnaires or candidate evaluation forms. For the 15 rehire PSCs for which Agriculture did produce Decision Forms, 13 of the forms indicated the number of candidates interviewed and the selected individual's ranking and overall score, and contained a certification that the hiring decision was not based on political party affiliation, support, or lack thereof; the remaining two forms indicated "N/A" in the boxes for number of candidates interviewed and candidate ranking, and indicated "REHIRE" in the box for overall score.

[Employee 17] previously worked for Agriculture as a State Fair Worker.³⁵ Investigators also showed Ms. Bluhm a March 28, 2014 email from then-CMS Deputy Director of Personnel Elizabeth Whitehorn to then-Agriculture [Employee 4], which stated: “Previous Exempt State Fair Workers cannot be considered rehires.” Ms. Bluhm said she did not recall the email, but that she understood that it was about whether State Fair Workers could be considered rehires when filling Conservation Historic Preservation Worker positions, and that it did not apply to PSCs. Ms. Bluhm said [Employee 17] was never required to sit for a *Rutan* interview, even though he filled a *Rutan*-covered position under the PSC.

Ms. Bluhm said she was never told the criteria that had to be satisfied to consider someone a rehire, and said that Agriculture was not following the criteria for rehires that are outlined in the PSC Hiring Procedures. Ms. Bluhm said that after she was interviewed by the OEIG in 2013 in a previous investigation, she spoke to then-Agriculture Chief of Staff Jared Thornley about Agriculture’s use of PSCs, and he told her to continue using PSCs the way they had been used in the past. Ms. Bluhm said Mr. Thornley also directed her to ask CMS for clarification about how to use PSCs; Ms. Bluhm said she did so, but CMS did not respond to her questions.³⁶

B. Examination Of Whether Agriculture Used PSCs To Fill Positions Covered By The Personnel Code

1. Application of Personnel Code Requirements to PSCs

Separate from the *Rutan* requirements discussed above, the Illinois Personnel Code requires State agencies filling positions within the Code’s jurisdiction to follow procedures to ensure that hiring is based on the principles of merit and fitness, unless the position is exempt.³⁷ As noted above, appointments to positions covered by the Code generally must be made from the appropriate eligible list of candidates, as determined from open competitive examinations.³⁸ Therefore, hiring through a PSC, rather than in compliance with the Personnel Code, avoids these steps.

An April 15, 2011 Illinois Civil Service Commission (CSC) decision addressed a union allegation that various State agencies, including Agriculture, failed to comply with the Personnel Code in their use of PSCs.³⁹ The CSC concluded that 16 Agriculture PSCs⁴⁰ covered “positions

³⁵ As discussed below, Ms. Bluhm told investigators that Agriculture never conducted *Rutan* interviews for State Fair Worker positions.

³⁶ The OEIG obtained emails from CMS that confirmed that on October 1, 2014, Ms. Bluhm emailed a series of questions to CMS, including whether there are guidelines on when a PSC is or is not appropriate, and requesting clarification regarding the PSC Hiring Procedures’ application to rehires of former State employees. Ms. Bluhm sent a follow-up email to CMS on February 10, 2015, asking for a response to her prior email. The emails obtained from CMS do not include any response to Ms. Bluhm’s questions.

³⁷ For example, the Code specifically exempts seasonal Agriculture employees who operate the Illinois and DuQuoin State Fairs for up to 29 days in a calendar year. 20 ILCS 415/4c(19).

³⁸ 80 Ill. Admin. Code 302.90, 302.110.

³⁹ See *Am. Fed. of State, County & Municipal Employees (AFSCME) Council 31 v. CMS*, RV-23-03 (Apr. 15, 2011). The CSC is tasked with approving exemptions to the Personnel Code’s merit and fitness requirements, among other responsibilities. See 20 ILCS 415/10.

⁴⁰ According to then-CMS Deputy General Counsel [Employee 6], who represented CMS in the litigation, the CSC focused on Agriculture’s PSCs because Agriculture was first alphabetically in a list of respondent State agencies.

of employment” as set forth in the Personnel Code, and directed Agriculture to “refrain from using personal service contracts for positions of employment so as to comply with the Personnel Code.”⁴¹ The CSC transmitted the decision to the parties in an April 15, 2011 letter that copied then-Agriculture Director Thomas Jennings.

Investigators interviewed then-CMS Deputy General Counsel [Employee 6] about the Personnel Code’s application to PSCs. [Employee 6] stated that the Personnel Code covers all “positions of employment” unless they are exempted, and explained that a “position of employment” is a position for which CMS has established a classification specification. Therefore, [Employee 6] said, a position is covered by the Personnel Code if it has similar duties as those in a position for which CMS has established a classification specification. [Employee 6] said that under the 2011 CSC decision, if a position covers duties that are found in a classification specification, it should be filled through the Personnel Code.

2. Review of Agriculture PSCs for Possible Personnel Code Violations

Investigators examined PSCs Agriculture awarded to approximately 56 individuals between May 2011 (following the issuance of the CSC’s April 15, 2011 decision) and September 2015, to determine whether they may have been for positions of employment under the Personnel Code.⁴² A complete list of those hires is set forth in Appendix C. Investigators confirmed that classification specifications existed for a number of the titles held by these individuals, including Apiary Inspector and Equine Investigator.⁴³ For example, investigators identified three individuals who were initially hired under PSCs as Apiary Inspectors for terms longer than six months, after the April 2011 CSC decision issued: [Employee 18], [Employee 12], and [Employee 19].

During [Employee 6’s] interview, investigators showed him PSCs for Apiary Inspector [Employee 18] and Equine Investigator [Employee 20], along with the classification specifications for those titles. [Employee 6] acknowledged that the duties listed in the PSCs were similar to those listed in the classification specifications for those titles, and opined that [Employee 18’s] Apiary Inspector position should have been filled as a Personnel Code-covered position.⁴⁴ However,

Documents CMS filed with the CSC indicated that the PSCs examined were for the following Agriculture positions: Building and Grounds Laborer, Data Processing Operator, Laboratory Associate, Meteorologist Associate, and Agriculture Marketing Reporter.

⁴¹ *Am. Fed. of State, County & Municipal Employees (AFSCME) Council 31 v. CMS*, RV-23-03 (Apr. 15, 2011). The CSC’s decision adopted CSC Executive Director Daniel Stralka’s Proposal for Decision. Although the allegations against the agencies other than Agriculture were dismissed, the CSC’s decision also directed the respondent agencies to comply with the Personnel Code’s directive that all positions of employment are subject to the provisions of the Personnel Code unless otherwise exempted.

⁴² The Personnel Code permits appointments of temporary or seasonal employees to be made for up to six months without following its requirements; no such positions under the Code may be filled by a temporary appointment for more than six months out of any 12-month period. *See* 20 ILCS 415/8b.9; 80 Ill. Admin. Code 302.150(c). Therefore, the OEIG selected a sample of individuals hired through PSCs that were for terms longer than six months and/or who had multiple PSCs with total terms exceeding six months in a 12-month period.

⁴³ See https://www.illinois.gov/sites/work/Documents/pdfs_specs/01215.pdf (Apiary Inspector); https://www.illinois.gov/sites/work/Documents/pdfs_specs/13840.pdf (Equine Investigator) (last visited Oct. 11, 2017).

⁴⁴ Although investigators only showed [Employee 6] 2014 and 2015 PSCs for [Employee 18], her original PSC, for the term May 9, 2011 through May 8, 2012, contained identical duties.

[Employee 6] said there were notable differences between [Employee 20's] Equine Investigator duties and the duties listed in the classification specification, which could make [Employee 20's] position not a covered position of employment under the Code.

[Employee 6] explained that it is more important to examine whether the duties listed in the PSC match the duties listed in a classification specification, and less important that the titles match. However, he said that different arguments can be made for how closely the duties need to match in order to conclude that a position awarded through a PSC is a position of employment covered by the Code. [Employee 6] said that agency legal departments should be making determinations as to whether the duties in a PSC match the duties in a classification specification, and that they can consult CMS if they are unable to make the determination.

3. May 12, 2016 Interview of Ms. Bluhm regarding Use of PSCs for Code-Covered Positions

During her May 12, 2016 interview, Ms. Bluhm said that when she was deciding whether to fill a position through a PSC or an appointment, she did not consider whether the employee would be performing the duties of a position covered by the Personnel Code. Ms. Bluhm said she thought it was appropriate to use PSCs to fill Code-covered positions because Agriculture cannot always fill certain positions through appointments.

When asked what the differences are between employees who are employed through PSCs, and employees who are appointed, Ms. Bluhm said that decisions to fill Code-covered positions through PSCs were “always about the money,” and where Agriculture had funds available in its budget. Ms. Bluhm explained that employees hired through PSCs were paid from Agriculture’s contractual line item, while employees who were appointed were paid from the personal services line item. Ms. Bluhm said that Agriculture’s fiscal staff directed bureaus to use PSCs when funding was only available in the contractual line item.⁴⁵

In addition to the budgetary reasons for using PSCs, Ms. Bluhm also said that Agriculture used PSCs to fill positions because CMS took too long to provide grades for certain titles and generate eligible lists for Code-covered positions. In addition, Ms. Bluhm said that employees hired through PSCs are not bargaining unit covered; she noted that in September 2015, CMS placed a hiring freeze on AFSCME positions. Ms. Bluhm said that although it was never Agriculture’s intent, the effect of using PSCs to fill positions for which there were established classification specifications was to avoid the jurisdiction of the Personnel Code.

Ms. Bluhm said she had never heard that PSCs could not be used to fill positions of employment, and said she was not aware of the CSC’s 2011 investigation of Agriculture’s use of PSCs. After she reviewed documents relating to the CSC case during her interview, Ms. Bluhm

⁴⁵ [Employee 21], who was Agriculture’s [redacted] from January 1, 2016 through July 31, 2016, told investigators in a December 15, 2016 interview that the Fiscal Department was not tasked with determining which hiring process to use when filling a position at Agriculture, and that when a PSC came to him he only checked to see whether Agriculture had available funding and “headcount” (the total number of employees an agency is permitted to employ). [Employee 21] said his approval of a hiring decision was never based on a payroll line, and that when he worked at Agriculture, the agency always had sufficient funds for hiring.

said she did not know why Agriculture continued to use PSCs to fill positions of employment following the CSC's direction not to do so.

4. Use of PSCs for Rehires into Code-Covered Positions

During their examination of whether Agriculture used PSCs to fill Code-covered positions of employment, investigators observed that PSCs were used to rehire individuals who may have previously held Code-covered positions. For example, according to his Expanded Personnel History, [Employee 22] worked for Agriculture as a full-time Equine Investigator from 1987 to 2004. Agriculture subsequently rehired [Employee 22] as an Equine Investigator under at least 12 PSCs between 2006 and 2015.⁴⁶ In her May 12, 2016 interview, Ms. Bluhm said that Agriculture was primarily using PSCs to bring back retirees for longer than 75 days in a calendar year, in addition to filling Trades positions.

Since the Salazar Memorandum only discussed bypassing the *Rutan* competitive hiring process for rehires into temporary positions, investigators asked [Employee 6] and then-CMS Deputy Director [Employee 5] about the application of the Salazar Memorandum to rehires under PSCs of individuals who previously held Code-covered positions. [Employee 6] responded that he could see how, based on the Salazar Memorandum, an agency might find it acceptable to use a PSC, rather than a competitive process, to rehire a person to perform similar work that he or she previously performed in a Code-covered position. However, [Employee 6] said, he did not think the intent of the Salazar Memorandum was to allow agencies to use PSCs without going through a competitive process.

[Employee 5] noted that there are retirees who return to State employment under PSCs, and said that Agriculture might not fill a PSC competitively if the candidate was previously employed in a Code-covered position with Agriculture, went through the *Rutan* process for the prior position, and had been performing similar duties to the duties contemplated under the PSC. However, [Employee 5] said she would strongly suggest that any position that needed to be filled for more than 6 months should be filled competitively.

C. Interview Of Agriculture [Employee 7]

Investigators interviewed [Employee 7] on May 20, 2016. [Identifying information redacted.]

[Employee 7] said Agriculture used PSCs, in part, for budgetary reasons. He explained that Agriculture has certain amounts of funds appropriated for contractual services and payroll, and Agriculture uses the contractual services budget line when there are no available funds in the payroll line.

⁴⁶ [Employee 22's] PSC terms were: January 24, 2006-June 30, 2006; July 1, 2006-September 15, 2006; January 16, 2007-June 30, 2007; July 1, 2007-September 15, 2007; January 16, 2008-June 30, 2008; July 8, 2008-September 15, 2008; January 16, 2009-September 15, 2009; January 15, 2010-September 14, 2010; January 30, 2011-September 14, 2011; January 15, 2013-September 15, 2013; January 15, 2014-September 15, 2014; and February 23, 2015-September 15, 2015. Agriculture noted that it could not locate contracts for Fiscal Year 2011.

[Employee 7] said he reviewed PSCs to ensure that the contract term was identified, an appropriation clause and the rate of pay were included, and that certain boxes were checked. [Employee 7] said that his signature as [title redacted] indicated that the PSC is an enforceable contract. [Employee 7] said PSCs involve a hiring and employment action, and he assumed Human Resources staff ensured that Agriculture complies with all hiring requirements.

[Employee 7] said he had not read the PSC Hiring Procedures, and that he did not know if Agriculture followed them. [Employee 7] said he was not aware that PSCs are required to be filled through a competitive process, or that the agency alternatively must obtain an exemption from CMS. [Employee 7] said Ms. Bluhm informed him that Agriculture posts all initial (non-rehire) positions to be filled through PSCs, but said he did not know whether Agriculture conducts interviews. He said it did not appear that Agriculture was completing Decision Forms.

[Employee 7] said he did not know if PSCs are subject to the requirements of the Personnel Code, or that PSCs should not be used to fill positions of employment. [Employee 7] said he was not aware of the CSC's 2011 investigation of Agriculture's use of PSCs until Ms. Bluhm mentioned it to him shortly before his OEIG interview. When asked why Agriculture continued to fill positions of employment through PSCs despite the CSC's decision, [Employee 7] said, "I have no idea." [Employee 7] said that approximately one month prior to his interview, [Employee 6] told him that Agriculture should try to get away from using PSCs if possible, but did not mention the CSC decision or the PSC Hiring Procedures.

D. Subsequent Actions Taken By Agriculture To Address Hiring Issues

The OEIG learned that in September 2016, after the OEIG completed the interviews discussed above, Agriculture issued new guidelines and procedures for using PSCs. In a February 10, 2017 OEIG interview, Agriculture Deputy Director Warren Goetsch said he relies on the General Counsel and Human Resources Director to ensure that Agriculture complies with applicable hiring policies and procedures and union contracts, and that he asked Agriculture staff to work with CMS to identify a process that could be implemented or tweaked to ensure compliance. After Agriculture had an opportunity to implement these changes, the OEIG decided to review changes implemented by Agriculture and ensure that these issues had been addressed.

1. September 2, 2016 Guidelines and Procedures for Using PSCs

On September 2, 2016, Ms. Bluhm and [Employee 7] issued a memorandum to Agriculture Senior Staff, Division Managers, and Bureau Chiefs that outlined new PSC guidelines and procedures. The memorandum stated that a PSC "cannot generally be used for the performance of work described in existing class specifications contained in the Position Classification Plan or work which is substantially similar to an existing class specification." The memorandum listed the following required procedures for using PSCs.

- Human Resources will consult with the hiring bureau to determine whether the position needs to be posted and *Rutan* interviews conducted.

- The hiring bureau may contact the Legal Office to use a PSC for an individual who has met the *Rutan* guidelines for “rehires.”⁴⁷
- A form must be completed at the time the PSC is executed, which justifies the selection of the candidate.
- The working title on a PSC should not be the same as a position classification title covered by the Personnel Code.
- When the PSC has been completed, the employing bureau must complete a performance evaluation form, and submit it to Human Resources.
- All documentation associated with PSCs, including *Rutan* documents, will be maintained by Human Resources.

2. December 12, 2017 Interview of Agriculture Human Resources Director Cheryl Bluhm

Investigators interviewed Agriculture Human Resources Director Cheryl Bluhm again on December 12, 2017, about changes Agriculture has implemented relating to its use of PSCs. Ms. Bluhm stated that since her May 2016 interview, she has taken on additional responsibilities relating to PSCs. Ms. Bluhm stated that she and [Employee 7] met with representatives from CMS following her May 2016 OEIG interview, and reviewed the new procedures that were then issued to Agriculture’s managerial staff in the September 2, 2016 memorandum.

Ms. Bluhm said that currently, when a bureau wants to hire a new person using a PSC, bureau staff electronically submits a request, which includes information such as the services to be provided. According to Ms. Bluhm, after she and others approve the request, the position is posted, and bureau staff and Human Resources staff conduct *Rutan* interviews. Ms. Bluhm said that Agriculture’s legal and bureau staff then work together to draft the PSC, which is routed to Ms. Bluhm, the Chief Financial Officer, and the General Counsel for approval.⁴⁸ Ms. Bluhm said she reviews the documentation to make sure that, among other things, *Rutan* interviews were completed, and that a determination form was completed. Ms. Bluhm said Agriculture has not submitted any requests to CMS for a *Rutan* exemption for a PSC since May 2016.

Ms. Bluhm said that for rehires under PSCs, the same electronic request and PSC approval procedure is followed, except that the position is not posted and interviews are not conducted. Ms. Bluhm said an evaluation form from the candidate’s prior Agriculture employment must be submitted to Human Resources as part of the process, and that a candidate is not rehired unless he or she had a satisfactory or above average prior evaluation. Ms. Bluhm said that the PSC files, including documentation of the interview and selection process for new hires, are now maintained in Human Resources, rather than in the hiring bureaus.

When asked whether Agriculture uses PSCs for positions that are the same or substantially similar to positions covered by the Personnel Code, Ms. Bluhm said: “Absolutely not.” However, she then clarified that Agriculture does not use titles in PSCs that match titles associated with Code-covered positions, but that her understanding is that Agriculture can rehire individuals under

⁴⁷ As noted above, these requirements include demonstrating some tangible benefit to the rehire, and that the candidate performed satisfactorily under the prior PSC.

⁴⁸ Ms. Bluhm said she did not recall if the Deputy Director also approves the completed PSC.

PSCs using a different title than that of a classification specification, even if the individuals are performing similar duties as a Code-covered position. Ms. Bluhm said that Agriculture uses one-year PSCs for positions with “pretty much” the same duties as duties performed under the Code-covered titles “Apiary Inspector” and “Equine Investigator,” but now uses the titles “Honeybee Inspector” and something like “Horse/County Fair Inspector” for these PSC positions.⁴⁹

3. December 12, 2017 Review of PSC Files

At the conclusion of Ms. Bluhm’s December 12, 2017 interview, investigators reviewed a sample of files for individuals hired under PSCs for *Rutan* documentation and performance evaluations. The files were housed in Agriculture’s Human Resources office space. Investigators observed *Rutan* documentation, such as postings, interview questionnaires, and candidate evaluation forms, in the new hire PSC files that were reviewed. The PSC files that were reviewed contained forms with narratives justifying the selection of the candidates, and language that the decision was not based on political factors. The files for PSCs whose terms had ended contained performance evaluation forms.

E. Other Agencies’ Use Of PSCs

Although this investigation focused on Agriculture’s use of PSCs, the OEIG is aware that other State agencies also use them. For example, the chart below shows the number of PSCs four other agencies awarded between 2013 and 2016:

Agency	PSCs Awarded 2013-2016
CMS	58
Department of Healthcare and Family Services	50
Department of Human Services	803
Historic Preservation Agency ⁵⁰	66

Based on evidence found in another OEIG investigation, it appears that other agencies may not only be using PSCs but doing so without following the proper hiring requirements. In OEIG Case No. 14-01315, the OEIG learned that the Historic Preservation Agency entered into two PSCs with an employee between 2012 and 2014. In a May 20, 2016 interview, the hired employee informed OEIG investigators that the positions she was hired into were not posted, and that she did not apply, submit a bid, or have an interview prior to receiving the contracts.⁵¹ CMS confirmed that the Historic Preservation Agency did not seek any *Rutan* exemptions for PSCs between July 2011 and June 2016.

⁴⁹ Ms. Bluhm said Agriculture no longer uses PSCs for Trades positions, such as Carpenters, because those titles cannot be changed to anything else.

⁵⁰ The Historic Preservation Agency ceased to exist as an independent agency in 2017, when the Abraham Lincoln Presidential Library and Museum that was under it became an independent agency, and the Historic Preservation Agency’s remaining functions were placed under the Illinois Department of Natural Resources. See Executive Order 2017-1 (eff. July 1, 2017); 20 ILCS 3475/601 (eff. Aug. 18, 2017).

⁵¹ The Historic Preservation Agency also engaged the employee to provide similar services as a “vendor” from October 15, 2012 to June 15, 2013, under a Basic Ordering Agreement. The employee told investigators that, as with her PSCs, this vendor position was not posted, and she did not apply, submit a bid, or have an interview prior to receiving the vendor contract.

F. Examination Of Agriculture's *Rutan* Compliance Relating To Hires Of State Fair Workers

In the course of investigating whether Agriculture violated applicable hiring policies and procedures relating to PSCs, the OEIG learned that Agriculture may not have been conducting interviews for State Fair Workers. Investigators examined that issue as well.

"State Fair Worker" is a general title assigned to Agriculture employees who performed various duties at the Illinois and DuQuoin State Fairs.⁵² According to [Employee 5] and [Employee 6], State Fair Worker positions, like other temporary positions, must be filled competitively unless they are submitted to CMS for a *Rutan* determination.

Investigators obtained and reviewed email exchanges from 2013 relating to Agriculture's process for hiring State Fair Workers. In early 2013, following the issuance of the Salazar Memorandum, then-Agriculture Human Resources Officer Cheryl Bluhm exchanged emails with CMS staff regarding Agriculture's hiring practices for summer workers. In a March 21, 2013 email, the Transactions, Records and Back Wage Claims Division Manager for CMS's Bureau of Personnel, [Redacted], wrote Ms. Bluhm that personalized Decision Forms must be completed for all hires, and that hires of State Fair Workers "are still [R]utan covered and should have some type of interview." Ms. Bluhm responded that Agriculture had not interviewed for State Fair Worker positions in the past because of the volume of applications, and asked for "realistic" suggestions, such as a *Rutan*-exempt title that could be used for Agriculture's summer hires. In an April 30, 2013 email that was forwarded to Ms. Bluhm, CMS staff stated that for Agriculture's summer program, phone interviews conducted by one person were acceptable.⁵³

The OEIG interviewed Ms. Bluhm on October 3, 2013 in a prior investigation. In that interview, Ms. Bluhm said that individuals who previously worked as State Fair Workers were given first preference, and that any remaining vacant positions that were not filled by previous State Fair Workers were filled with "random" candidates selected following a review of applications. At her October 3, 2013 interview, Ms. Bluhm said that Agriculture did not conduct interviews for State Fair Worker positions, and that the positions had been classified as *Rutan*-exempt.

Investigators also asked Ms. Bluhm about Agriculture's hiring practices relating to State Fair Workers in her May 12, 2016 interview in this investigation. Ms. Bluhm said Agriculture still treated State Fair Worker positions as *Rutan*-exempt based on past practices, and that *Rutan* interviews had never been conducted for those positions. Instead, Ms. Bluhm said, Agriculture still selected State Fair Workers by reviewing applications and randomly selecting candidates who were available during the fairs. Ms. Bluhm said she did not recall CMS informing her that State Fair Workers were *Rutan*-covered positions. Ms. Bluhm maintained that Agriculture was in

⁵² Although many of the PSCs reviewed above were used to hire individuals to work at the state fairs, "State Fair Worker" is a distinct title, and is separate and different from the individuals hired through PSCs to work at the state fairs.

⁵³ Multi-member panels of interviewers generally are required to conduct *Rutan* interviews, except under limited circumstances where CMS approves the use of single interviewers. Administrative Order No. 2 (2009).

compliance with *Rutan* by using State Fair Worker candidates' applications to rank them, rather than doing *Rutan* interviews.

During her December 12, 2017 OEIG interview, investigators asked Ms. Bluhm if Agriculture has implemented any changes to the way it hires workers for the State Fairs since her May 2016 interview. Ms. Bluhm said Agriculture no longer uses the State Fair Worker title, and that temporary positions formerly filled by State Fair Workers are now filled under the Conservation Historic Preservation Worker title. Ms. Bluhm said that since the 2016 State Fairs, Agriculture has interviewed all candidates for State Fair positions who had not previously worked for Agriculture, or whose only prior work for Agriculture was as State Fair Workers.

IV. ANALYSIS

The OEIG's investigation revealed that, in its use of PSCs between 2007 and 2015, Agriculture regularly disregarded *Rutan*'s hiring requirements and the administrative orders and CMS procedures designed to ensure that State hiring is based on merit. The investigation further revealed that significant confusion existed regarding the appropriate use of PSCs to fill positions that are covered by the Personnel Code. The investigation also revealed that, under Ms. Bluhm's oversight, Agriculture failed to conduct required *Rutan* interviews of State Fair Workers.

A. *Rutan* Compliance For Hires And Rehires Under PSCs

Hires through PSCs, including temporary hires, are covered by *Rutan*, and therefore must be based on merit, rather than political connections or activity, or other non-merit factors. To ensure that PSCs comply with *Rutan* and related administrative orders, in December 2006 CMS issued the PSC Hiring Procedures, which require agencies using PSCs to post the position, conduct structured *Rutan* interviews using standardized interview questionnaires, document the interview process and contracting decision, and maintain hiring files containing this documentation, along with a statement certifying that politics were not a factor in the contracting decision.

The PSC Hiring Procedures and the subsequent December 2012 Salazar Memorandum describe two circumstances when a State agency need not follow these *Rutan* procedures when hiring through a PSC. First, the agency can obtain an exemption from the requirement from CMS for a particular PSC. In addition, the agency may forego using the competitive process for a rehire of an individual who previously worked for the agency in a similar capacity if the agency documents the tangible benefit that the rehire provides to the agency, and that the candidate performed satisfactorily in his or her previous employment.⁵⁴

This investigation revealed that Agriculture failed to follow these procedures through 2015, both with initial hires and rehires under PSCs.

1. Agriculture Failed to Comply with Administrative Order No. 2 (2009) and the PSC Hiring Procedures, for Initial Hires Under PSCs

⁵⁴ Although the Salazar Memorandum also states that this documentation needs to be submitted to CMS, the PSC Hiring Procedures do not include this requirement. Given the lack of clarity regarding this requirement, the OEIG makes no finding regarding Agriculture's practice of not submitting rehire forms to CMS.

The OEIG examined a selection of 132 PSCs for initial hires Agriculture awarded between January 2007 (after the PSC Hiring Procedures were issued) and September 2015. For 127 of those PSCs, Agriculture was unable to produce any *Rutan* documentation, such as completed interview questionnaires, candidate evaluation forms, Decision Forms, or statements certifying that politics were not a factor in the contracting decision. For two of the 132 PSCs, Agriculture produced Decision Forms but no interview questionnaires or candidate evaluation forms. Moreover, between 2006 and 2015, Agriculture obtained an exemption from the *Rutan* requirements for only one of the 132 initial hires examined. Therefore, Agriculture failed to comply with the *Rutan* requirements prescribed in Administrative Order No. 2 (2009) and the PSC Hiring Procedures for nearly all the initial hire PSCs examined.

According to Agriculture Human Resources Director Cheryl Bluhm, as of May 2016 the bureaus making the PSC hires were responsible for conducting *Rutan* interviews and maintaining interview files and Decision Forms for individuals hired through PSCs. Ms. Bluhm said that at that time, she did not check with the bureaus to ensure that interviews were done, and could not answer whether Decision Forms were being completed. Ms. Bluhm added that Agriculture did not post positions or interview candidates for Operator, Teamster, and Electrician positions at the Illinois State Fair, but rather recruited for those positions in the union hall. Ms. Bluhm acknowledged that Agriculture's failure to complete Decision Forms when it filled positions through PSCs did not comply with Administrative Order No. 2 (2009) or the PSC Hiring Procedures.

Agriculture failed to comply with the posting and interview requirements for at least the Operator, Teamster, and Electrician positions hired through PSCs, and failed to comply with the documentation requirements in nearly all the initial PSC hires the OEIG examined in this investigation that were made between 2007 and 2015. More troubling, because of the lack of documentation and lack of oversight over PSC hiring at Agriculture, the OEIG was unable to tell whether Agriculture conducted *Rutan* interviews for most of those hires. Although the OEIG did not uncover evidence that the hires were made based on political connections, Agriculture's lax process created the potential for improper political hiring to occur. The allegation that Agriculture⁵⁵ hired employees through PSCs without complying with the *Rutan* requirements of Administrative Order No. 2 (2009) and the PSC Hiring Procedures between 2007 and 2015 is **FOUNDED**.⁵⁶

To its credit, Agriculture took action to address these issues following Ms. Bluhm's 2016 OEIG interview. Agriculture originated and distributed a memorandum outlining new PSC guidelines and procedures. PSC hiring files are now centrally maintained in Human Resources, allowing Human Resources staff to more effectively oversee these hires. Ms. Bluhm advised investigators that since the summer of 2016 Agriculture has conducted *Rutan* interviews for all

⁵⁵ These improper hiring practices began prior to Ms. Bluhm's appointment as Agriculture's Human Resources Director, and it appears that multiple individuals contributed to the lack of oversight of PSC hiring. Accordingly, the OEIG makes this finding against Agriculture as an agency, rather than against any particular employee.

⁵⁶ The OEIG concludes that an allegation is "founded" when it has determined that there is reasonable cause to believe that a violation of law or policy has occurred, or that there has been fraud, waste, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance.

new hires under PSCs. And finally, in a December 2017 review, OEIG investigators observed appropriate *Rutan* documentation in a sampling of PSC files for new hires.

2. Agriculture Failed to Comply with the PSC Hiring Procedures and the Salazar Memorandum for Rehires under PSCs

Although CMS permits agencies to bypass the ordinary *Rutan* hiring process when rehiring former employees in a similar capacity through PSCs, the OEIG discovered that Agriculture did not comply with even the minimal procedures required for such rehires between 2013 and 2015.

The OEIG examined a selection of 148 PSCs for rehires, which Agriculture awarded between January 2013 (after the Salazar Memorandum was issued) and September 2015. For 133 of those PSCs, Agriculture was unable to produce any Decision Forms. In addition, of the 15 rehire PSCs for which Agriculture did produce Decision Forms, most of those forms did not contain the elements required by the PSC Hiring Procedures and the Salazar Memorandum: none of the forms demonstrated that the rehire provided some tangible benefit to Agriculture, and 12 of the 15 forms did not include any verification of the candidate's past performance. In addition, the documents examined showed that Agriculture rehired at least one employee, [Employee 17], to a *Rutan*-covered position on a PSC after he worked as a State Fair Worker; therefore, [Employee 17] never went through any *Rutan* competitive hiring process for either position.

Ms. Bluhm told investigators in her May 2016 interview that Agriculture did not complete Decision Forms when an individual was rehired on a PSC. In addition, she said that Agriculture generally did not check prior evaluations when considering whether to rehire an individual on a PSC, and that Human Resources did not track whether the bureaus evaluated their employees. Ms. Bluhm said she sought guidance from CMS about how PSCs could be used, but received no response. Ms. Bluhm acknowledged that Agriculture did not follow the PSC Hiring Procedures' criteria for rehires.

The evidence gathered in the investigation showed that for numerous employees rehired through PSCs between 2013 and 2015, Agriculture failed to document that the rehires provided some tangible benefit to the agency, and failed to verify that the candidates performed satisfactorily in their previous employment, as required to be able to bypass the competitive process. The allegation that Agriculture rehired employees through PSCs without complying with the PSC Hiring Procedures and the Salazar Memorandum is **FOUNDED**.

As with its new hires under PSCs, since Ms. Bluhm's May 2016 OEIG interview Agriculture has implemented changes to address the problems identified in this investigation relating to rehires under PSCs. Ms. Bluhm assured investigators in December 2017 that the bureaus must now submit documentation justifying the rehire, as well as an evaluation form from the candidate's prior Agriculture employment that indicates that he or she performed satisfactorily. A sample of PSC rehire files investigators reviewed in December 2017 contained such documentation, including prior evaluations.

B. Clarification Is Needed Regarding The Appropriate Use Of PSCs For Hires And Rehires Into Personnel-Coded Positions

In April 2011, the CSC found that various Agriculture PSCs were “positions of employment” covered by the Personnel Code, and directed Agriculture to “refrain from using personal service contracts for positions of employment so as to comply with the Personnel Code.”⁵⁷ Although this broad language suggests that PSCs may not be used to fill any Code-covered positions, the basis for the CSC’s decision is not explained; for example, it is unclear whether the CSC considered whether it would be permissible for an agency to use a PSC as the hiring mechanism after selecting the candidate in compliance with the procedures outlined in the Personnel Code. In addition, given that the 2012 Salazar Memorandum permits agencies to rehire individuals to perform similar work in temporary positions, it is unclear how the CSC’s decision applies to rehires under PSCs of employees who previously held Code-covered positions.

In her May 2016 interview, Ms. Bluhm said she thought it was appropriate to use PSCs to fill Code-covered positions, and that when she was deciding whether to fill a position through a PSC, she did not consider whether the employee would be performing the duties of a position covered by the Personnel Code. During her May 2016 interview, when shown PSCs for various individuals, Ms. Bluhm acknowledged that the individuals performed at least some of the duties listed in the classification specifications for those titles. As of May 2016, Ms. Bluhm said she was not aware of the CSC’s 2011 investigation of Agriculture’s use of PSCs, and said she did not know why Agriculture had continued to use PSCs to fill positions of employment following the CSC’s direction not to do so.

In September 2016, Agriculture issued new policies and procedures that stated that PSCs generally could not be used for work that is substantially similar to an existing class specification. However, Ms. Bluhm acknowledged in her December 2017 interview that Agriculture has continued to rehire individuals under PSCs to perform the same or similar duties as the duties of Code-covered positions, and simply uses new titles for the PSC positions. Thus, the only change Agriculture has made is a superficial one: to merely use new titles for positions that are otherwise the same or similar to Code-covered positions. For example, Ms. Bluhm said that Agriculture has continued to hire individuals under one-year PSCs to perform the same duties performed by Code-covered Apiary Inspectors but uses a different title for the PSC positions.

Confusion remains regarding whether PSCs may be used to fill Code-covered positions at all, and if so, the appropriate process for doing so. The CSC’s basis for its 2011 decision is not clarified, and that decision could be viewed as inconsistent with the 2012 Salazar Memorandum, which permits agencies to rehire individuals into temporary positions if they previously worked for the agency in a similar capacity. Although the Salazar Memorandum only discussed bypassing the *Rutan* competitive hiring process for such rehires, and did not address competitive hiring requirements under the Personnel Code, [Employee 6] acknowledged in his OEIG interview that an agency could understand the Salazar Memorandum to permit the rehire of an individual under a PSC to perform similar work that he or she previously performed in a Code-covered position. Indeed, it appears that this is Ms. Bluhm’s understanding. Given this lack of clarity, the potential for confusion, and the amount of PSCs being used by agencies for employing individuals, the OEIG is referring this issue to CMS and the Office of the Governor to clarify whether it is proper

⁵⁷ *Am. Fed. of State, County & Municipal Employees (AFSCME) Council 31 v. CMS*, RV-23-03 (Apr. 15, 2011) (adopting the CSC Executive Director’s Proposal for Decision).

to use PSCs for positions that are comparable to Code-covered positions, and if so, to develop and distribute written guidelines for hiring and rehiring individuals under PSCs into such positions.

C. Cheryl Bluhm Failed To Comply With *Rutan* Guidelines Relating To Hires Of State Fair Workers

Like the other temporary positions examined in this investigation, Agriculture's State Fair Worker position is *Rutan*-covered, and must be filled competitively. CMS made this requirement clear to Ms. Bluhm in March 2013, when a CMS employee wrote her that the State Fair Worker positions "are still [R]utan covered and should have some type of interview." In apparent recognition of the challenges Agriculture faces in quickly hiring large numbers of temporary summer workers each year, in a communication that was forwarded to Ms. Bluhm in April 2013, CMS granted Agriculture permission to use a single interviewer in its summer program hiring process. Nevertheless, Ms. Bluhm acknowledged in interviews with the OEIG in October 2013 and again in May 2016 that Agriculture did not conduct interviews for State Fair Worker positions.

Under Ms. Bluhm's oversight, Agriculture continued to hire State Fair Workers without conducting any type of interviews through 2015. The allegation that Ms. Bluhm hired State Fair Workers without conducting *Rutan* interviews as required by Administrative Order No. 2 (2009) is **FOUNDED**.

Agriculture has also taken steps to address this issue. According to Ms. Bluhm, beginning in the 2016 State Fair season, Agriculture has interviewed all candidates for State Fair positions who had not previously worked for Agriculture, or whose only prior work for Agriculture was as State Fair Workers.

V. FINDINGS AND RECOMMENDATIONS

As a result of its investigation, the OEIG concludes that there is **REASONABLE CAUSE TO ISSUE THE FOLLOWING FINDINGS:**

- **FOUNDED** – The Illinois Department of Agriculture hired new employees under Personal Services Contracts between 2007 and 2015 without completing *Rutan* interviews or maintaining required hiring documentation, in violation of Administrative Order No. 2 (2009), and the PSC Hiring Procedures.
- **FOUNDED** – The Illinois Department of Agriculture rehired employees under Personal Services Contracts between 2013 and 2015 without documenting that the rehires provided some tangible benefit to the agency, and without verifying that the candidates performed satisfactorily in their previous employment, in violation of the PSC Hiring Procedures and the Salazar Memorandum.

- **FOUNDED** – Illinois Department of Agriculture employee Cheryl Bluhm hired State Fair Workers without completing *Rutan* interviews, in violation of Administrative Order No. 2 (2009).

The OEIG recommends that Agriculture take whatever action it deems necessary with regard to Ms. Bluhm. As discussed above, Agriculture has already implemented changes designed to ensure that hiring and rehiring through PSCs complies with the requirements of Administrative Order No. 2 (2009), the PSC Hiring Procedures, and the Salazar Memorandum, including conducting required *Rutan* interviews, maintaining hiring documentation and performance evaluations, and increasing centralized oversight of the PSC hiring process. Agriculture has also implemented changes to ensure that applicable *Rutan* requirements are followed relating to hiring seasonal staff for the State Fairs. The OEIG recommends that Ms. Bluhm and Agriculture's Human Resources Department staff continue these efforts in order to ensure continued compliance.

In addition, because other State agencies may be using similarly problematic practices for hiring under PSCs as the OEIG examined at Agriculture in this investigation, the OEIG recommends that CMS take necessary action to ensure that all agencies are using PSCs in compliance with the requirements of Administrative Order No. 2 (2009), the PSC Hiring Procedures, and the Salazar Memorandum.

The OEIG further recommends that CMS and the Office of the Governor provide guidance to all relevant agencies regarding the ability to use PSCs for positions that are comparable to Code-covered positions. If it is determined that using a PSC is not appropriate for a person performing Code-covered duties, certainly the mere changing of a position title, as done at Agriculture, would be an insufficient means to circumvent this bar. Thus, it is important that CMS develop and distribute written guidelines for agency hiring and rehiring individuals under PSCs into such positions.

No further investigative action is needed, and this case is considered closed.

Date: **March 13, 2018**

Office of Executive Inspector General
for the Agencies of the Illinois Governor
69 W. Washington St., Suite 3400
Chicago, IL 60602

By: **Angela Luning**
Deputy Inspector General

Tiffany Pryor-Wallace
Supervising Investigator #157

APPENDIX A
Selected Initial Agriculture Hires Under PSCs, 2007-2015

Name	Initial PSC Term	Rutan Documentation Produced
[All names redacted]	8/9/10-8/31/10	None
	4/15/11-9/30/11	None
	8/9/10-8/31/10	None
	7/16/12-8/31/12	None
	4/12/10-9/30/10	None
	8/9/10-8/31/10	None
	8/9/07-9/15/07	None
	7/1/08-8/31/08	None
	4/5/10-9/30/10	None
	8/3/12-8/31/12	None
	7/1/08-8/31/08	None
	8/7/15-8/25/15	None
	6/1/07-9/15/07	None
	6/1/15-11/30/15	Exemption granted
	8/3/07-8/31/07	None
	8/9/07-9/15/07	None
	4/22/13-10/21/13	None
	8/5/11-8/31/11	None
	7/1/13-6/30/14	None
	7/7/10-7/30/10	None
	7/1/11-9/30/11	None
	8/7/08-8/31/08	None
	4/17/15-10/31/15	Completed interview questionnaires; candidate evaluation forms; selection form
	4/17/15-10/31/15	Completed interview questionnaires; candidate evaluation forms; selection form
	6/8/07-9/30/07	None
	7/17/07-8/31/07	None
	4/14/10-9/30/10	None
	7/1/11-9/30/11	None
	7/2/07-8/10/07	None
	8/3/12-8/31/12	None
	4/12/10-9/30/10	None
	7/7/08-8/31/08	None
	8/2/13-8/20/13	None
	8/3/07-8/31/07	None
	7/21/14-2/21/15	None
	8/4/08-8/31/08	None
	8/3/10-8/31/10	None
	8/2/13-8/18/13	None
	9/20/10-11/30/10	None

	6/2/08-11/30/08	None
	7/12/10-8/15/10	None
	8/5/08-8/31/08	None
	8/1/12-8/31/12	None
	6/7/07-9/30/07	None
	8/2/13-8/31/13	None
	8/3/07-8/31/07	None
	7/2/08-8/31/08	None
	6/18/07-8/31/07	None
	8/1/12-8/3/12	None
	7/1/11-6/30/12	None
	4/12/10-9/30/10	None
	8/10/09-8/31/09	None
	7/16/10-8/31/10	None
	8/3/07-8/31/07	None
	4/12/10-9/30/10	None
	8/3/07-8/31/07	None
	8/1/13-8/31/13	None
	8/3/07-8/31/07	None
	5/9/11-5/8/12	None
	8/5/11-8/31/11	None
	8/7/14-8/17/14	None
	8/1/07-8/31/07	None
	7/16/08-8/31/08	None
	7/17/08-8/31/08	None
	7/1/08-8/31/08	None
	7/1/08-8/31/08	None
	8/4/08-8/31/08	None
	8/2/10-9/15/10	None
	6/19/07-9/30/07	None
	4/15/11-9/30/11	None
	6/21/13-12/21/13	None
	4/1/11-10/31/11	None
	11/16/07-12/15/07	None
	5/2/11-5/1/12	None
	6/18/12-12/17/12	None
	8/2/08-8/31/08	None
	4/12/10-9/30/10	None
	7/2/07-8/10/07	None
	6/16/09-8/31/09	None
	7/1/12-6/30/13	None
	8/1/08-8/31/08	None
	8/10/09-8/31/09	None
	7/1/08-8/31/08	None
	8/3/09-8/31/09	None
	6/1/09-9/30/09	None
	1/17/08-6/30/08	None
	4/12/10-9/30/10	None
	8/3/09-8/31/09	None

	4/15/11-9/30/11	None
	5/25/11-7/22/11	None
	7/1/12-6/30/13	None
	8/1/08-8/31/08	None
	5/29/12-7/27/12	None
	7/19/10-8/31/10	None
	4/12/10-9/30/10	None
	6/1/13-5/31/14	None
	7/16/08-8/31/08	None
	8/10/09-8/31/09	None
	8/22/11-10/20/11	None
	8/7/15-8/25/15	None
	6/1/10-11/30/10	None
	8/2/13-8/31/13	None
	7/16/12-8/31/12	None
	7/16/07-8/31/07	None
	4/12/10-9/30/10	None
	8/7/08-8/31/08	None
	8/1/08-8/31/08	None
	7/26/10-8/31/10	None
	6/26/07-11/30/07	None
	8/3/07-8/31/07	None
	8/9/10-8/31/10	None
	8/1/13-8/31/13	None
	6/8/07-9/30/07	None
	8/3/12-8/31/12	None
	5/20/13-8/31/13	None
	8/1/11-8/31/11	None
	7/1/08-8/31/08	None
	7/1/11-9/30/11	None
	4/1/09-5/29/09	Employment Decision Form (6/2/09) indicating candidate's ranking, number of interviewees; certification that the hiring decision was not based on politics
	5/1/14-6/27/14	None
	3/18/13-5/16/13	Employment Decision Form (5/6/13) indicating candidate's ranking, number of interviewees, overall score; certification that the hiring decision was not based on politics
	8/3/10-9/15/10	None
	5/1/14-11/30/14	None
	7/2/07-8/31/07	None
	7/2/07-8/10/07	None
	5/9/11-5/8/12	None
	8/1/08-8/31/08	None
	9/21/11-11/18/11	None
	7/12/10-8/15/10	None

	8/5/12-8/19/12	None
	8/5/11-8/31/11	None
	8/5/11-8/31/11	None

APPENDIX B
Selected Individuals Rehired By Agriculture Under PSCs, 2013-2015

Name	Date(s) of Rehire PSCs	Employment Decision Form (Y/N)
[All names redacted]	8/5/13-8/31/13	N
	8/2/13-8/31/13	N
	8/1/14-8/31/14	N
	8/7/15-8/25/15	N
	5/1/14-10/31/14	Y (6/16/14)
	4/16/15-10/15/15	N
	8/1/13-8/31/13	N
	7/27/15-9/15/15	N
	5/16/14-11/15/14	N
	5/4/15-10/31/15	N
	5/1/14-10/13/14	Y (6/2/14)
	4/16/15-10/15/15	N
	7/1/14-6/30/15	N
	7/1/15-7/30/16	N
	8/16/14-2/15/15	N
	8/1/13-8/31/13	N
	8/1/14-8/31/14	N
	8/3/15-8/30/15	N
	5/16/14-10/15/14	Y (6/16/14)
	6/1/15-11/30/15	N
	7/1/13-6/30/14	N
	7/1/14-6/30/15	N
	7/1/15-12/31/15	N
	2/24/14-4/24/14	N
	5/4/15-10/31/15	N
	7/8/13-1/31/14	Y (4/18/13)
	4/21/14-10/20/14	N
	5/1/15-10/31/15	N
	3/16/13-3/15/14	N
	4/1/14-9/30/14	Y (6/16/14)
	3/9/15-9/8/15	N
	2/27/14-4/27/14	N
	4/28/14-10/27/14	N
	5/18/15-11/17/15	N
	6/21/13-9/30/13	N
	5/4/15-11/3/15	N
	5/1/14-10/31/14	Y (6/2/14)
	6/1/15-11/30/15	N
	8/9/13-8/18/13	Y (6/4/13)
	8/7/14-8/17/14	Y (7/21/14)
	5/1/14-10/31/14	Y (6/16/14)
	5/4/15-10/31/15	N
	7/3/13-7/2/14	N
	4/16/14-10/15/14	Y (6/16/14)
	6/1/15-11/30/15	N

	1/1/14-12/31/14	N
	4/21/15-12/31/15	N
	5/16/13-8/31/13	N
	7/1/14-12/31/14	N
	7/1/13-6/30/14	N
	7/1/14-6/30/15	N
	7/1/15-7/30/16	N
	5/4/15-10/31/15	N
	5/13/13-8/31/13	N
	5/1/14-11/1/14	N
	5/16/15-11/15/15	N
	8/1/15-8/23/15	N
	1/1/14-12/31/14	N
	4/21/15-12/31/15	N
	1/8/15-3/6/15	N
	4/16/15-10/15/15	N
	6/1/15-11/30/15	N
	8/1/13-8/31/13	N
	8/1/14-8/31/14	N
	8/3/15-8/30/15	N
	5/4/15-10/31/15	N
	4/1/14-11/1/14	N
	7/1/13-6/30/14	N
	7/1/14-6/30/15	N
	7/1/15-6/30/16	N
	5/26/15-11/26/15	N
	7/1/14-6/30/15	N
	7/1/15-6/30/16	N
	7/3/13-7/2/14	N
	8/2/13-8/31/13	N
	8/1/14-8/31/14	N
	8/7/15-8/25/15	N
	5/1/14-10/31/14	Y (6/16/14)
	5/4/15-10/31/15	N
	5/16/13-11/15/13	N
	5/16/14-11/15/14	N
	5/18/15-11/17/15	N
	4/16/15-10/15/15	N
	5/16/14-11/15/14	Y (6/16/14)
	1/15/13-6/30/13 & 11/16/13-12/15/13	N
	1/15/14-6/30/14 & 11/17/14-12/16/14	N
	2/23/15-6/30/15 & 11/16/15-12/15/15	N
	4/16/15-10/15/15	N
	6/1/14-11/30/14	Y (5/7/14)
	7/1/13-6/30/14	N

	7/1/14-6/30/15	N
	7/1/15-7/30/16	N
	7/3/13-7/2/14	N
	7/28/13-7/27/14	N
	7/28/14-7/27/15	N
	5/16/14-11/15/14	Y (6/2/14)
	6/1/15-11/30/15	N
	6/1/14-12/31/14	N
	4/8/15-8/31/15	N
	9/23/15-12/31/15	N
	4/16/14-10/15/14	N
	4/16/15-10/15/15	N
	4/1/14-9/30/14	N
	12/16/14-6/15/15	N
	6/1/15-11/30/15	N
	5/12/14-7/10/14	N
	7/11/14-1/10/15	N
	4/16/14-10/15/14	N
	6/1/15-11/30/15	N
	1/1/14-12/31/14	N
	4/21/15-12/31/15	N
	8/1/14-8/31/14	N
	7/16/13-8/31/13	N
	8/1/14-8/31/14	N
	6/3/13-8/18/13	N
	8/2/13-8/31/13	N
	8/1/14-8/31/14	N
	8/7/15-8/25/15	N
	8/2/13-8/31/13	N
	8/2/13-8/31/13	N
	5/4/15-10/31/15	N
	1/1/13-6/30/13	N
	7/1/14-6/30/15	N
	7/1/15-12/31/15	N
	1/9/14-3/7/14	N
	8/1/13-8/18/13	N
	8/1/14-8/18/14	N
	8/1/15-8/23/15	N
	6/1/15-11/30/15	N
	6/24/15-12/23/15	N
	5/1/14-11/1/14	N
	5/4/15-11/3/15	N
	5/4/15-10/31/15	N
	5/1/15-11/30/15	N
	4/16/15-10/15/15	N
	1/1/14-12/31/14	N
	4/8/15-7/31/15	N
	7/22/15-12/31/15	N
	2/1/13-1/31/14	N
	2/1/14-8/1/14	N

	6/3/13-8/19/13	N
	6/9/14-8/17/14	N
	6/1/15-8/23/15	N
	5/16/14-11/15/14	Y (6/16/14)
	6/1/15-11/30/15	N
	2/1/13-1/31/14	N
	2/1/14-8/1/14	N
	4/8/15-10/7/15	N

APPENDIX C
Individuals Hired Under PSCs For More Than 6 Months
May 2011-September 2015

Name	PSC Term(s)	PSC Position/Job Description
[All names redacted]	6/18/12-12/31/13 1/1/14-12/31/14	Apiary Inspector
	5/1/14-10/31/14 4/16/15-10/15/15	Temporary Carpenter
	6/27/11-1/27/12	Temporary Plumber
	6/27/11-1/27/12	Temporary Plumber
	5/9/11-5/8/12	Apiary Inspector
	2/9/11-2/8/12 7/1/12-6/30/13	Security Officer
	5/1/14-10/31/14 4/16/15-10/15/15	Temporary Painter
	7/1/12-6/30/13 7/1/13-6/30/14 7/1/14-6/30/15 7/1/15-7/30/16	Secretary (Mexico office)
	7/1/11-9/30/11 10/1/11-12/31/11 1/1/12-3/31/12 4/1/12-6/30/12 7/1/12-9/30/12 10/1/12-12/31/12 7/1/13-6/30/14 7/1/14-6/30/15 7/1/15-12/31/15	Accountant/Consultant (Mexico office)
	7/8/13-1/31/14 4/21/14-10/20/14	Storeroom Helper
	4/17/15-10/31/15	Campground Superintendent
	4/17/15-10/31/15	Campground Superintendent
	7/18/11-1/31/12	Temporary Painter
	3/16/13-3/15/14	Security Officer
	7/1/11-9/30/11 10/1/11-12/31/11 1/12/12-3/31/12	Messenger (Mexico office)
	2/27/14-4/27/14 4/28/14-10/27/14	Grandstand Entertainment Manager
	7/21/14-2/21/15	Heavy Machinery Equipment Operator
	7/1/12-6/30/13 7/3/13-7/2/14	Security Officer
	7/1/11-1/6/12 4/3/12-6/1/12	Temporary Plumber
	5/9/11-5/8/12	Apiary Inspector

	6/18/12-12/31/13 1/1/14-12/31/14 4/21/15-12/31/15	
	7/1/11-6/30/12 7/1/12-6/30/13 7/1/13-6/30/14 7/1/14-6/30/15 7/1/15-7/30/16	Agriculture Trade Director (Hong Kong office)
	1/15/13-9/15/13 1/15/14-9/15/14 2/23/15-9/15/15	Equine Investigator
	5/9/11-5/8/12 6/18/12-12/31/13 1/1/14-12/31/14 4/21/15-12/31/15	Apiary Inspector
	1/8/15-3/6/15 4/16/15-10/15/15	Temporary Carpenter
	3/18/14-3/17/15	Inspection, scientific assessment of plans and protocols
	6/20/11-12/20/11 3/19/12-5/17/12 3/18/13-5/16/13 5/17/13-11/15/13 4/1/14-9/30/14 12/16/14-6/15/15	Temporary Plumber
	1/30/12-9/15/12 1/15/13-9/15/13 1/15/14-9/15/14 2/23/15-9/15/15	Equine Investigator
	4/1/12-10/31/12 4/1/14-11/1/14	Campground Office Manager
	4/1/12-10/31/12 4/1/14-1/1/14	Campground Office Manager
	5/2/11-5/1/12 7/1/12-6/30/13 7/1/13-6/30/14 7/1/14-6/30/15 7/1/15-6/30/16	Inspection of dried distillers grain
	4/12/11-4/11/12 4/17/12-4/16/13 6/1/13-5/31/14 7/1/14-6/30/15 7/1/15-6/30/16	Advisor (water issues)
	10/16/14-10/15/15	Staff Attorney
	7/1/12-6/30/13 7/1/13-6/30/14	Translator (Mexico office)

	7/1/14-6/30/15 7/1/15-6/30/16	
	4/7/11-4/6/12 7/1/12-6/30/13 7/3/13-7/2/14	Security Officer
	6/27/11-1/27/12	Temporary Laborer
	1/15/13-6/30/13 & 11/16/13-12/15/13 1/15/14-6/30/14 & 11/17/14-12/16/14	Equine Investigator
	6/27/11-1/27/12	Temporary Laborer
	7/1/12-6/30/13 7/1/13-6/30/14 7/1/14-6/30/15 7/1/15-7/30/16	Messenger (Mexico office) Information Systems Technician (Mexico office)
	7/1/12-6/30/13 7/3/13-7/2/14	Security Officer
	5/29/12-7/27/12 7/28/12-7/27/13 7/28/13-7/27/14 7/28/14-7/27/15	Temporary Operator
	10/22/13-12/20/13 4/11/14-10/10/14 2/23/15-8/22/15	Temporary Painter
	6/1/13-5/31/14 6/1/14-12/31/14 4/8/15-8/31/15 9/23/15-12/31/15	Apiary Inspector
	4/1/14-9/30/14 12/16/14-6/15/15	Temporary Carpenter
	1/30/12-6/30/12 & 11/16/12-12/15/12 1/15/13-6/30/13 & 11/16/13-12/15/13 1/15/14-6/30/14 & 11/17/14-12/16/14 2/23/15-6/30/15 & 11/16/15-12/15/15	Equine Investigator
	5/12/14-7/10/14 7/11/14-1/10/15	Temporary Operator
	5/9/11-5/8/12 6/18/12-12/31/13	Apiary Inspector

	1/1/14-12/31/14 4/21/15-12/31/15	
	4/17/12-4/16/13	Locate regulatory sites for gypsy moth quarantine area
	7/1/11-9/30/11 10/1/11-12/31/11 1/1/12-3/31/12 7/1/12-9/30/12 10/1/12-12/31/12 1/1/13-6/30/13 7/1/14-6/30/15 7/1/15-12/31/15	Messenger (Hong Kong office)
	5/26/11-11/25/11 1/13/12-3/12/12 3/13/12-5/11/12	Temporary Carpenter
	7/1/15-6/30/16	Administrative Assistant
	6/1/11-11/30/11- 5/1/12-10/31/12	Summer Payroll/Timekeeper
	5/1/14-11/30/14 5/1/15-11/30/15	Summer Payroll/Timekeeper
	5/9/11-5/8/12 6/18/12-12/31/13 1/1/14-12/31/14 4/8/15-7/31/15 7/22/15-12/31/15	Apiary Inspector
	2/1/12-1/31/13 2/1/13-1/31/14 2/1/14-8/1/14	Administrative Assistant, Human Resources coordination
	9/21/11-11/18/11 11/21/11-1/9/12 3/13/12-5/17/12 5/18/12-7/16/12	Temporary Operator
	2/1/13-1/31/14 2/1/14-8/1/14	Economic development at DuQuoin State Fair

From: Sondgeroth, Craig
Sent: Monday, April 30, 2018 3:35 PM
To: Klein, Thomas H <Thomas.H.Klein@illinois.gov>
Cc: Hutchison, Jill <Jill.Hutchison@illinois.gov>
Subject: OEIG Case No. 14-1678

Dear Mr. Klein,

The Illinois Department of Agriculture ("Department") received the summary report for OEIG Case No. 14-1678.

We appreciate the OEIG's extensive investigation into the Department's compliance with *Rutan* hiring requirements and procedures relating to the use of personal service contracts.

As noted in the report, the Department has already implemented changes designed to ensure that hiring and rehiring through PSCs complies with the requirements of Administrative Order No. 2 (2009), the PSC Hiring Procedures, and the Salazar Memorandum, including conducting required *Rutan* interviews, maintaining hiring documentation and performance evaluations, and increasing centralized oversight of the PSC hiring process. The report also noted that the Department has also implemented changes to ensure that applicable *Rutan* requirements are followed relating to hiring seasonal staff for the State Fairs.

As recommended by the OEIG, Ms. Bluhm and the Department's Human Resources staff will continue the above efforts in order to ensure continued compliance. The Department will obviously also comply with any updated/revised administrative orders, hiring procedures, memos etc. The Department has also reviewed the summary report with Ms. Bluhm and stressed that compliance is of the utmost importance. The Department also plans to periodically confirm that Human Resources is complying with hiring requirements.

Please let me know if you have any questions or need anything else.

Sincerely,



CRAIG J. SONDGEROTH | GENERAL COUNSEL
Illinois Department of Agriculture

John R. Block Building | 801 E Sangamon Ave, PO Box 19281 | Springfield, IL 62794-9281
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for the Agencies of the Illinois Governor
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**AGENCY OR ULTIMATE JURISDICTIONAL AUTHORITY
RESPONSE FORM**

Case Number: 14-01678

Return 20 Days After Receipt

Please check the box that applies. (Please attach additional materials, as necessary.)

☐ We have implemented all of the OEIG recommendations. Please provide details as to actions taken:

☒ We will implement some or all of the OEIG recommendations but will require additional time to do so.
We will report to OEIG within days from the original return date. by 4/28/18.

☐ We do not wish to implement some or all of the OEIG recommendations. Please provide details as to what actions were taken, if any, in response to OEIG recommendations:

Sarah Kerley
Signature

Sarah Kerley
Print Name

CMS Acting Assistant Director
Print Agency and Job Title

4/4/2018
Date

From: Kerley, Sarah (CMS)
Sent: Monday, April 30, 2018 3:54 PM
To: Klein, Thomas H <Thomas.H.Klein@illinois.gov>
Cc: Hutchison, Jill <Jill.Hutchison@illinois.gov>; Hartzler, Joseph <Joseph.Hartzler@illinois.gov>
Subject: CMS Response to OEIG Case No. 14-01678

Mr. Klein,

Please allow the following to serve as CMS's response to the OEIG's final report:

In March 2018, CMS was served with a copy of the OEIG's report related to the use of Personal Services Contracts by the Department of Agriculture. CMS appreciates being made aware of issues surrounding the use of PSCs under existing policies. Due to the involvement of the federal court appointed Special Master, CMS stopped using *Rutan* scales to categorize both position descriptions and proposed personal services contracts. This presents a policy gap that will need to be addressed.

CMS has already begun work to develop updated guidance and a new policy with respect to the appropriate use of personal services contracts at the State's agencies. CMS is committed to working with the Governor's office to finalize and implement this policy change as soon as we are able. However, changes such as these are also vetted by OEIG's Hiring and Employment Monitoring Division and the *Shakman* Special Master. We have had preliminary discussions with both groups on the issue of personal services contract. Personal services contracts are part of a larger conversation with the HEM Division and the *Shakman* Special Master about interrelated hiring issues and associated policy changes. Therefore, CMS does not yet have a timeline for implementing the expected changes, but it remains a high priority to facilitate this needed change as soon as possible and in a manner that fully educates agency personnel to promote compliance.

Thank you.

Sarah Kerley

Sarah Kerley
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